

## **HRL EXHIBIT 6**

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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Case No. 18-cv-01776-JRT-HB

**In re Pork Antitrust Litigation**

This Document Relates To:

All Actions

**DEFENDANT HORMEL FOODS  
CORPORATION'S INITIAL LIST OF  
PROPOSED DOCUMENT  
CUSTODIANS**

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Pursuant to Court order—as discussed during the April 11, 2019 status conference and later memorialized in the Court Minutes (*see* Court Minutes 1 [Doc. No. 318])—Defendant Hormel Foods Corporation<sup>1</sup> (“Hormel Foods” or the “Company”) hereby serves the following Initial List of Proposed Document Custodians (“Initial List”):

**PRELIMINARY STATEMENT**

This Initial List is based upon the allegations set forth in Plaintiffs’ Consolidated Class Action Complaints and information reasonably available to Hormel Foods at this time. It has been prepared prior to the Court’s ruling on the Defendants’ motions to dismiss, and prior to the completion of Hormel Foods’ investigation, discovery, and preparation for trial. While it is not presently possible to reasonably estimate the burden or expense of the proposed discovery, this Initial List contemplates the production of data

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<sup>1</sup> As stipulated by the parties in their December 12, 2018 Joint Status Report and Letter Brief, discovery as to holding-company defendant Hormel Foods, LLC is deferred pending resolution of the motions to dismiss. (*See* Joint Status Report & Letter Br. 1 [Doc. No. 233]) In any event, Hormel Foods is aware of no document custodians specific to Hormel Foods, LLC with any relevant knowledge or records.

and information from various noncustodial data sources, as described in Hormel Foods' March 8, 2019 Limited Disclosures and its March 29, 2019 Initial Objections and Responses to the Plaintiffs' First Sets of Requests.

Hormel Foods reserves the right to supplement and amend this Initial List—or otherwise make changes if it appears that omissions or errors have been made—after receiving and reviewing Plaintiffs' counterproposal, if any, and after any meet-and-confers with Plaintiffs. Hormel Foods further reserves the right to supplement and amend its list of document custodians as information becomes available in the course of discovery and further investigation. Hormel Foods also reserves its right to rely upon and introduce into evidence at trial or any pre-trial proceeding any such additional information. Hormel Foods further reserves the right to introduce any documents and call any witnesses not provided in this Initial List at trial, should a trial of this matter be necessary.

This Initial List is for the purpose of discovery only, and is not an admission or acceptance that any disclosure, fact, or document is relevant or admissible into evidence. Hormel Foods does not waive—and expressly reserves—without limitation, any evidentiary objections based upon relevance, materiality, competence, privilege, trade secret, or the appropriate scope of discovery on any other grounds.

### **INITIAL LIST OF PROPOSED DOCUMENT CUSTODIANS**

The Complaints<sup>2</sup> allege a conspiracy among the Defendants to restrict hog production through the use of Agri Stats reports. (*See, e.g.*, Direct Purchaser Pls.’ Compl. ¶¶ 51-52 [Doc. No. 83]) According to Plaintiffs, “[v]ertical integration is . . . pervasive [in the pork industry, and] allows the . . . Defendants to directly control the production and supply of pork . . . .” (*Id.* ¶ 69) And “the [Agri Stats] reports contain such detailed figures covering every aspect of pork production and sales that participants can accurately identify the companies behind the metrics” and “monitor each other’s ongoing adherence to agreed-upon plans for coordinated production limits.” (*Id.* ¶¶ 60-61) The Complaints, however, fail to explain how Hormel Foods—as a net purchaser of hogs with a limited Agri Stats subscription—could have used Agri Stats information to take any action furthering a conspiracy to limit the supply of hogs. (*Compare, e.g., with* Hormel Foods’ Mem. in Supp. of Mot. to Dismiss 4-7)

As explained in its Limited Disclosures, for the period from January 1, 2007 to June 30, 2018, Hormel Foods subscribed to Agri Stats reports as follows: Hormel Foods subscribed to Agri Stats reports for Swine Processing from January 1, 2007 to October 2010, and from December 2014 to November 2017. Through the now-divested PFFJ, LLC, the Company also subscribed to Agri Stats reports for Swine Production. After the divestiture of PFFJ to Smithfield in 2016, Hormel Foods subscribed to the Agri Stats

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<sup>2</sup> Although Hormel Foods cites the Direct Purchaser Plaintiffs’ First Amended and Consolidated Class Action Complaint for purposes of illustration, the allegations against the Company in the other complaints are materially identical.

reports for Swine Production from June 2017 to February 2018. Hormel Foods never subscribed to any other Agri Stats reports—including, for example, Swine Sales.

As set forth in the Company's Rule 26(a)(1)(A) Initial Disclosures, the below-listed individuals have knowledge of Hormel Foods' limited subscription to Agri Stats. Collectively, they have interacted with Agri Stats, provided select Company data to Agri Stats, reviewed Agri Stats materials, and exercised decision-making authority regarding the Company's use of Agri Stats' services. As such, Hormel Foods' Initial List of Proposed Document Custodians is as follows:

<b>Name</b>	<b>Title</b>
Paul Bogle	Director, Cost Accounting
Corwyn Bollum	Director, Pork Operations and Procurement
Jessica Chenoweth	Cost Analyst
Lance Hoefflin	Manager, Pork Operations
Paul Peil	Director of Sales, Fresh Meat
Jose Rojas	Vice President, Farm Operations (2012-17)
Donald Temperley	Vice President, Operations-Refrigerated Foods

Hormel Foods could not have participated in the alleged conspiracy—the existence of which Hormel Foods specifically denies—without some or all of the above-listed individuals possessing documents or information relevant to claims or defenses related to it.

Dated: April 18, 2019

*s/ Emily E. Chow*

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